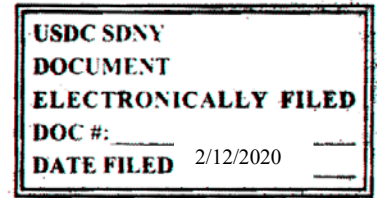


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
JOEL RICH, et al.,

Plaintiffs,

18-CV-2223 (GBD)(SN)

-against-

ORDER

FOX NEWS NETWORK LLC, et al.,

Defendants.
-----X

SARAH NETBURN, United States Magistrate Judge:

On February 10, 2020, the parties, except *pro se* defendant Ed Butowsky, appeared for a conference to discuss the scheduling issues raised in the parties' January 15, 2020 Letter. For reasons stated on the record at that conference, the Court hereby ORDERS the following:

Status of ESI. By February 24, 2020, the parties shall jointly file a letter updating the Court as to the status of an ESI protocol including agreed upon search terms and custodians. To the extent the parties have been unable to agree as to either the search terms or custodians, each party may file a letter of no more than five pages addressing the disputed issues.

Motions to Dismiss. Plaintiff's opposition to defendants Fox New Network LLC and Malia Zimmerman's motion to dismiss is due by February 28, 2020. Defendants' reply is due March 20, 2020. Defendants Fox New Network LLC and Malia Zimmerman shall answer the amended complaint within 15 days of Judge Daniels's decision on the motion to dismiss.

Pleadings and Parties. The parties may amend the pleadings or join additional parties until May 20, 2020.

Status Letter. A joint letter informing the Court about the status of discovery shall be filed with the Court by Friday, April 24, 2020. The letter should address any outstanding discovery disputes.

Discovery. All fact discovery shall be completed by Friday, September 18, 2020. The identity of expert witnesses that are being offered affirmatively and their subject matter shall be disclosed by Friday, September 18, 2020. Disclosure of affirmative expert reports as required by Rule 26(a)(2)(A), (B) or (C) shall be served by Monday, October 5, 2020, and rebuttal reports shall be served by Friday, November 13, 2020. All expert discovery shall be completed by Thursday, December 31, 2020. This deadline is firm.

Discovery Guidelines.

A. ESI

1. File Type and Metadata Fields:

Except for the files to be produced in native format, as discussed below, documents shall be produced as image files (preferably TIFF, and PDF if necessary) accompanied by a Concordance DAT file, with an opticon Log file for image cross-reference, that includes the following metadata fields: BegNum/BegBates, EndNum/EndBates, AttachBeg, AttachEnd, Custodian, FileName, FileType/DocumentType, Original File Path (if readily available), Sender/From, Recipients/To, CC, BCC, MailSubject/Email Subject, SentDate/Date sent, FileExtension, OSDatelastSaved/DateMod, Nativelink/ProdNativePath, MD5 Hash Value, and Conversation ID (extracted ID used to tie together e-mail threads/ConversationIndex), SentTime/TimeSent, TimelastSaved/TimeMod, Datecreated, Timecreated.

2. Files to be Produced in Native Format

Excel or other spreadsheet files, databases, audio, and video files shall be produced in their native format.

3. Time zone

Emails should be produced in the time zone in which the emails were standardized during conversion, which for the purposes of this litigation will be GMT.

B. Preservation

The parties shall continue to preserve and protect all potentially relevant documents and sources of information relevant to the case.

C. Privilege

Attorney-client privileged materials communicated between litigation counsel and a client or client representative, work product generated after the filing of this lawsuit, and common interest communications regarding the same (including, for example, communications between the Fox News Network LLC, Ms. Zimmerman, and Mr. Butowsky) need not be included on a privilege log.

Communications between an expert witness for any party and the party's attorneys will not be discoverable pursuant to Federal Rule of Civil Procedure 26(b)(4)(C) except to the extent that the expert relies upon them for his or her opinions.

D. Documents Produced on a Rolling Basis

Documents will be produced on a rolling basis; if copies are produced, the originals will be made available for inspection upon request.

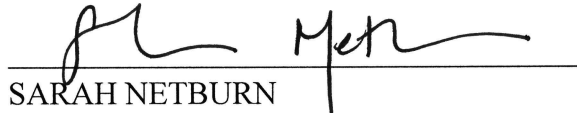
E. Objections at Depositions

At a deposition, neither party may make a speaking objection other than for privilege and to the form of the question. All objections to relevance, lack of foundation, non-responsiveness, or speculation are preserved.

F. Service

Documents may be served on the opposing party by sending the documents via email to their counsel of record and/or by making them available to such counsel for immediate download via other electronic means. Such service will be treated as personal service under Federal Rule of Civil Procedure 5(b)(2)(A).

SO ORDERED.


SARAH NETBURN
United States Magistrate Judge

DATED: February 12, 2020
New York, New York

cc: Ed Butowsky *pro se (By Chambers)*